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15 February 1955

OGC Has Reviewed

Memorandum for: Inspector General

Subject : Legal Standards Relevant to Inspector General Cases

1. Reference is made to your memorandum of November 19, 1954, wherein you raise certain questions, the responses to which you say will achieve a better understanding of the full effect of rulings by this office.

2. We have purposely delayed replying to your memorandum inasmuch as we have had under consideration for some time two cases submitted by the FE Division concerning the payments of special living allowances based on apparently valid authorizations by officials authorized to approve such type allowances. A copy of our office opinion on these cases is attached hereto.

3. You will observe that administrative error, in our opinion, characterizes the payments concerned.

[Redacted]

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4. Following discussions with [Redacted] of your staff, we have stipulated that response to the question raised in sub-paragraph 2b. of your memorandum will not be answered. We therefore direct our comments to sub-paragraphs 2a. and c. thereof.

5. We have stated in the attached opinion that payments which would ordinarily be contrary to applicable law and regulations may nevertheless be proper provided the connection between the unique situations peculiar to this Agency and the unusual authorities can be established. We believe that this Agency possesses characteristics and complexities of administration which are not common to all Government agencies. Many reasons may intervene to take an Agency case out of the general rulings applicable to such cases. We

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therefore express the opinion that it is undesirable to take a general ruling such as the one referred to in Decision B-118963 of the Comptroller General and apply it universally. It is our opinion, therefore, that rulings of this type should be related to the circumstances of the case which made it necessary or those of close similarity. With respect to the promulgation of such rulings, it is our opinion that it would be better to err on the side of caution and to relate rulings to the general circumstances under which they arose.

6. We originally considered including a basic discussion of the employer-employee relationship as it pertains to the Government as an employer, the nature of public office, public funds, and a general treatment that the privilege of Government service subjects an employee to regulation of their personal freedoms and rights beyond that of the ordinary citizen. Any worthwhile treatment of that subject would inevitably involve a lengthy paper. We have, therefore, held it in abeyance and believe it may be appropriately introduced at such time as our discussions on this general matter are resumed.

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Assistant General Counsel

Attachment

OGC:JBK:cst

cc: Subject ✓
Signer
Chrono
DD/A

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